

Executive Summary – Enforcement Matter – Case No. 46138
City of Gustine
RN102178654
Docket No. 2013-0253-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Gustine WWTP, located approximately two miles east of the intersection of State Highway 36 and Farm-to-Market Road 1476, Comanche County

Type of Operation:

Wastewater treatment plant

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 18, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$40,000

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$40,000

Name of SEP: WWTP Improvements (Compliance SEP)

Compliance History Classifications:

Person/CN - Unsatisfactory

Site/RN - Unsatisfactory

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 46138
City of Gustine
RN102178654
Docket No. 2013-0253-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 11, 2012

Date(s) of NOE(s): January 3, 2013

Violation Information

1. Failed to comply with permitted effluent limitations for dissolved oxygen, ammonia nitrogen, total suspended solids, residual chlorine, and 5-day carbonaceous biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].
2. Failed to submit effluent monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0010841001, Monitoring and Reporting Requirements No. 1].
3. Failed to submit the annual sludge report for the monitoring period ending July 31, 2012, by September 1, 2012 [30 TEX. ADMIN CODE § 305.125(1) and (17) and TPDES Permit No. WQ0010841001, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require the Respondent to:
 - a. Within 30 days:
 - i. Submit the discharge monitoring reports ("DMRs") for the monitoring periods ending June 30, 2012; July 31, 2012; and August 31, 2012, and the annual sludge report for the monitoring period ending July 31, 2012; and

Executive Summary – Enforcement Matter – Case No. 46138

City of Gustine

RN102178654

Docket No. 2013-0253-MWD-E

- ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and annual sludge reports.
- b. Within 45 days, submit written certification of compliance with Ordering Provision a.
- c. Within 180 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010841001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jacquelyn Green, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: Meaghan Bailey, SEP Coordinator, Litigation Division, MC 175, (512) 239-0205

Respondent: The Honorable Ken Huey, Mayor, City of Gustine, P.O. Box 145, Gustine, Texas 76455

Respondent's Attorney: N/A

Attachment A
Docket Number: 2013-0253-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Gustine
Penalty Amount:	Forty Thousand Dollars (\$40,000)
SEP Offset Amount:	Forty Thousand Dollars (\$40,000)
Type of SEP:	Compliance SEP
Project Name:	<i>WWTP Improvements</i>
Location of SEP:	Comanche County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment plant which are described in this Agreed Order. This Agreed Order cites violations at the Respondent's wastewater treatment plant. Respondent shall hire a contractor to lower and level the clarifier Weir; repair or replace the air system piping and diffusers; and install an automatic ammonia sensor system at its wastewater treatment plant. Specifically, the SEP Offset Amount shall be used for materials, supplies, equipment, and contractor services for one or more of the following: lower and level the clarifier Weir, repair or replace the air system piping and diffusers, and install the automatic ammonia sensor system (the "Project"). Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C, Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has not previously performed this Project, and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Contractor Estimate:				
Lower and level Weir	1	\$7,885.00	Each	\$7,885.00
Repair air system	1	\$13,935.00	Each	\$13,935.00
Install ammonia analyzer	1	\$25,920.00	Each	\$25,920.00
Total				\$47,740.00

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 90 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 60 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed

on the Project during the previous 30-day period and setting forth a schedule for achieving completion of the Project within the 90-day time-frame set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 30-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
60	Actions completed during previous 60-day period
90	Notice of SEP completion

B. Final Report

Within 90 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Dated photographs of the purchased equipment; the equipment being removed; before and after work being performed during the installation process; and photographs of the completed Project;
4. Copies of all engineering plans related to work performed pursuant to the Project;
5. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
6. Any additional information demonstrating compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	7-Jan-2013	Screening	21-Jan-2013	EPA Due	
	PCW	30-Jan-2013				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Gustine		
Reg. Ent. Ref. No.	RN102178654		
Facility/Site Region	3-Abilene	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	46138	No. of Violations	5
Docket No.	2013-0253-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jacquelyn Green
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$20,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **100.0%** Enhancement **Subtotals 2, 3, & 7** **\$20,000**

Notes Enhancement for four months of self-reported effluent violations, one order with denial of liability, one order without denial of liability, unsatisfactory performer classification, and repeat violation status.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$4,704**
Approx. Cost of Compliance **\$47,375**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$40,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$40,000**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$40,000**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$40,000**

Screening Date 21-Jan-2013

Docket No. 2013-0253-MWD-E

PCW

Respondent City of Gustine

Policy Revision 3 (September 2011)

Case ID No. 46138

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102178654

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 65%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance History Notes

Enhancement for four months of self-reported effluent violations, one order with denial of liability, one order without denial of liability, unsatisfactory performer classification, and repeat violation status.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 100%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 100%

Screening Date 21-Jan-2013

Docket No. 2013-0253-MWD-E

PCW

Respondent City of Gustine

Policy Revision 3 (September 2011)

Case ID No. 46138

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102178654

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description

Failed to comply with permitted effluent limitations, as documented in a record review conducted on December 11, 2012, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen and five-day carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen was also evaluated. Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

One monthly event is recommended for the month of September 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4,681

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent City of Gustine
Case ID No. 46138
Reg. Ent. Reference No. RN102178654
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount
Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$47,000	31-Oct-2011	27-Oct-2013	1.99	\$4,681	n/a	\$4,681

Notes for DELAYED costs

Estimated cost to evaluate the cause of the non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$47,000

TOTAL

\$4,681

Screening Date 21-Jan-2013

Docket No. 2013-0253-MWD-E

PCW

Respondent City of Gustine

Policy Revision 3 (September 2011)

Case ID No. 46138

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102178654

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permitted effluent limitations, as documented in a record review conducted on December 11, 2012, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen and five-day carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were also evaluated. Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 1

31 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	X
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,750

One monthly event is recommended for the month of March 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent City of Gustine
Case ID No. 46138
Reg. Ent. Reference No. RN102178654
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit is included in Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 21-Jan-2013
Respondent City of Gustine
Case ID No. 46138
Reg. Ent. Reference No. RN102178654
Media [Statute] Water Quality
Enf. Coordinator Jacquelyn Green

Docket No. 2013-0253-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 3

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2

Violation Description

Failed to comply with permitted effluent limitations, as documented in a record review conducted on December 11, 2012, and shown in the attached violation table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen and five-day carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids and chlorine residual were also evaluated. Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

213 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$3,750

Three quarterly events are recommended for the quarters containing the months of October, November, and December 2011; and January, February, April, and May 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV		NOV to EDPRP/Settlement Offer
	Extraordinary	Ordinary	
N/A	x		(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent City of Gustine
Case ID No. 46138
Reg. Ent. Reference No. RN102178654
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The economic benefit is included in Violation No. 1.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Screening Date 21-Jan-2013

Docket No. 2013-0253-MWD-E

PCW

Respondent City of Gustine

Policy Revision 3 (September 2011)

Case ID No. 46138

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102178654

Media [Statute] Water Quality

Enf. Coordinator Jacquelyn Green

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0010841001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to submit effluent monitoring results at the intervals specified in the permit, as documented during a record review conducted on December 11, 2012. Specifically, the discharge monitoring reports ("DMRs") for the monitoring periods ending June 30, 2012; July 31, 2012; and August 31, 2012 were not submitted by the 20th day of the following month.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			
	x		

Percent 5.0%

Matrix Notes

At least 100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 3

185 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$3,750

Three single events are recommended, one for each DMR.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDP RP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$21

Violation Final Penalty Total \$7,500

This violation Final Assessed Penalty (adjusted for limits) \$7,500

Economic Benefit Worksheet

Respondent City of Gustine
Case ID No. 46138
Reg. Ent. Reference No. RN102178654
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$250	20-Jul-2012	27-Oct-2013	1.27	\$16	n/a	\$16
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$75	20-Jul-2012	27-Oct-2013	1.27	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and to conduct employee training (\$250), and to prepare and submit the DMRs (\$25 per DMR). Date required is the date the first DMR was due. Final date is the estimated date of compliance to conduct employee training to submit the DMRs.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$325

TOTAL

\$21

Screening Date 21-Jan-2013
Respondent City of Gustine
Case ID No. 46138
Reg. Ent. Reference No. RN102178654
Media [Statute] Water Quality
Enf. Coordinator Jacquelyn Green

Docket No. 2013-0253-MWD-E

PCW

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Violation Number 5

Rule Cite(s)

30 Tex. Admin Code § 305.125(1) and (17) and TPDES Permit No. WQ0010841001, Sludge Provisions

Violation Description

Failed to submit the annual sludge report for the monitoring period ending July 31, 2012, by September 1, 2012, as documented during a record review conducted on December 11, 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

At least 100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

142 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDP RP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent City of Gustine
Case ID No. 46138
Reg. Ent. Reference No. RN102178654
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	1-Sep-2012	27-Oct-2013	1.15	\$3	n/a	\$3

Notes for DELAYED costs

Estimated cost to submit the annual sludge report for the monitoring period ending July 31, 2012. Date required is the date the annual sludge report was due and the final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$3

City of Gustine
TPDES Permit No. WQ0010841001
Docket No. 2013-0253-MWD-E

	Ammonia Nitrogen Daily Avg. Conc.	Ammonia Nitrogen Single Grab Conc.	Ammonia Nitrogen Daily Avg. Loading Conc.	CBOD₅ Daily Avg. Conc.	CBOD₅ Daily Single Grab Conc.	CBOD₅ Daily Avg. Conc.	Total Suspended Solids Daily Avg. Conc.	Total Suspended Solids Daily Avg. Loading Conc.	Chlorine Residual Minimum	Dissolved Oxygen Minimum
Months:	Limit = 3 mg/L	Limit = 15 mg/L	Limit = 2.1 lbs/day	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 6.8 lbs/day	Limit = 15 mg/L	Limit = 10 lbs/day	Limit = 1 mg/L	Limit = 4 mg/L
October 2011	3.2	c	c	c	c	c	c	c	0.7	c
November 2011	23.5	40.8	3	c	c	c	c	c	c	c
December 2011	43.8	48	7.1	17.25	c	c	20.5	c	c	c
January 2012	21.5	34.4	3.6	11	c	c	c	c	c	c
February 2012	6.9	c	c	c	c	c	c	c	c	c
March 2012	24.3	43.2	20.5	c	c	10	15.8	12.2	c	c
April 2012	23.6	41.1	3.77	18.8	40	c	29.5	c	c	c
May 2012	33.2	36.8	4.9	19	39	c	29	c	c	c
September 2012	36.8	43.9	9.2	32.2	60	7.8	c	c	c	3.6

mg/L = milligrams per liter
lbs/day = pounds per day
CBOD₅ = five-day Carbonaceous Biochemical Oxygen Demand
c = compliant
Conc. = concentration
Avg. = average

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN600640189, RN102178654, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600640189, City of Gustine

Classification: UNSATISFACTORY **Rating:** 133.39

Regulated Entity: RN102178654, CITY OF GUSTINE WWTP

Classification: UNSATISFACTORY **Rating:** 133.39

Complexity Points: 4

Repeat Violator: YES

CH Group: 08 - Sewage Treatment Facilities

Location: located approximately two miles east of the intersection of State Highway 36 and Farm-to-Market Road 1476 in Comanche County, Texas

TCEQ Region: REGION 03 - ABILENE

ID Number(s):

WASTEWATER PERMIT WQ0010841001

WASTEWATER EPA ID TX0117722

WASTEWATER LICENSING LICENSE WQ0010841001

Compliance History Period: September 01, 2007 to August 31, 2012

Rating Year: 2012

Rating Date: 09/01/2012

Date Compliance History Report Prepared: March 04, 2013

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: March 04, 2008 to March 04, 2013

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jacquelyn Green

Phone: (512) 239-2587

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 07/03/2008 ADMINORDER 2005-1455-MWD-E (1660 Order-Agreed Order With Denial)
Classification: Minor
Citation: 30 TAC Chapter 317 317.4(a)(8)
Description: Failure to provide annual certification on the backflow prevention assembly.
Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Rqmt Prov:Operational Requirements No. 1 PERMIT
Description: Failed to ensure that the wastewater treatment facility and its systems of collection, treatment, and disposal are properly operated and maintained.
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(9)(A)
Rqmt Prov:Mon. & Rep. Req. No. 7(c) PERMIT
Description: Failure to submit noncompliance notifications for effluent violations which deviate from the permitted effluent limit by more than 40%.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 317 317.4(a)(5)

Rqmt Prov:WQ0010841001 PERMIT

Description: Failure to provide auxiliary power at the Facility during electrical power failures.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov:Sludge Provisions, F. Reporting Req. PERMIT

Description: Failure to timely submit the annual sludge report for the monitoring period ending July 31, 2007.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov:Ordering Provision No. 3 ORDER

WQ0010841001 PERMIT

Description: Failure to comply with its permitted effluent limits.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(11)(B)
30 TAC Chapter 305, SubChapter F 305.125(11)(C)
30 TAC Chapter 319, SubChapter A 319.7(a)
30 TAC Chapter 319, SubChapter A 319.7(c)

Rqmt Prov:WQ0010841001 PERMIT

Description: Failure to maintain complete records of monitoring activities and operations and maintenance records.

Classification: Moderate

Citation: 30 TAC Chapter 30, SubChapter J 30.350(d)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov:WQ0010841001 PERMIT

Description: Failure to employ an operator with adequate wastewater certification.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	April 29, 2008	(654022)	Item 13	November 09, 2009	(819044)
Item 2	July 15, 2008	(732726)	Item 14	November 20, 2009	(819045)
Item 3	August 18, 2008	(688618)	Item 15	December 28, 2009	(819046)
Item 4	September 30, 2008	(732727)	Item 16	March 24, 2010	(835919)
Item 5	October 11, 2008	(930320)	Item 17	August 30, 2010	(868830)
Item 6	November 07, 2008	(732728)	Item 18	November 29, 2010	(889665)
Item 7	December 12, 2008	(732729)	Item 19	December 28, 2010	(898035)
Item 8	March 03, 2009	(755985)	Item 20	February 11, 2011	(910824)
Item 9	March 16, 2009	(772966)	Item 21	June 02, 2011	(947207)
Item 10	August 03, 2009	(819041)	Item 22	September 09, 2011	(967136)
Item 11	August 24, 2009	(819042)	Item 23	October 07, 2011	(973101)
Item 12	September 25, 2009	(819043)	Item 24	December 27, 2012	(1069570)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1 Date: 03/31/2012 (1018221) CN600640189
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

2	Date: 04/30/2012 (1018222)	CN600640189	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
3	Date: 05/31/2012 (1033311)	CN600640189	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		
4	Date: 09/30/2012 (1069569)	CN600640189	
	Self Report? YES	Classification: Moderate	
	Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
	Description: Failure to meet the limit for one or more permit parameter		

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

1	Date:	09/30/2007	(755986)	CN600640189	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description:	Failure to meet the limit for one or more permit parameter				
2	Date:	10/31/2007	(772968)	CN600640189	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description:	Failure to meet the limit for one or more permit parameter				
3	Date:	11/30/2007	(772969)	CN600640189	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description:	Failure to meet the limit for one or more permit parameter				
4	Date:	12/31/2007	(772970)	CN600640189	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description:	Failure to meet the limit for one or more permit parameter				
5	Date:	01/31/2008	(772965)	CN600640189	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description:	Failure to meet the limit for one or more permit parameter				
6	Date:	02/28/2008	(755984)	CN600640189	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description:	Failure to meet the limit for one or more permit parameter				
7	Date:	02/29/2008	(930318)	CN600640189	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				
	Description:	Failure to meet the limit for one or more permit parameter				
8	Date:	03/31/2008	(732722)	CN600640189	Classification:	Moderate
	Self Report?	YES	For Informational Purposes Only			
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)				

30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

9 Date: 04/30/2008 (732723) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

10 Date: 05/31/2008 (732724) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

11 Date: 06/30/2008 (732725) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

12 Date: 07/31/2008 (717358) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

13 Date: 08/31/2008 (717359) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

14 Date: 12/31/2008 (755987) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

15 Date: 01/31/2009 (755983) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

16 Date: 03/31/2009 (930319) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

17 Date: 04/30/2009 (772967) CN600640189
Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

18 Date: 12/31/2009 (819047) CN600640189
Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

19 Date: 01/31/2010 (819040) CN600640189
Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

20 Date: 02/09/2010 (791549) CN600640189
Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to correctly report self-reported effluent data on DMRs for months of
November 2008, December 2008, January 2009, February 2009, March 2009,
and April 2009.

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(e)
WQ0010841001 PERMIT

Description: Failure to conduct the required quality assurance/quality control (QA/QC) for the
total chlorine residual analysis.

Classification: Minor

Self Report? NO For Informational Purposes Only

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
WQ0010841001 PERMIT

Description: Failure to maintain and secure all lift stations.

21 Date: 03/31/2010 (835920) CN600640189
Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

22 Date: 04/30/2010 (889663) CN600640189
Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

23 Date: 05/31/2010 (847822) CN600640189
Classification: Moderate

Self Report? YES For Informational Purposes Only

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

24 Date: 06/30/2010 (862227) CN600640189

			Classification: Moderate
	Self Report? YES	For Informational Purposes Only	
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	
25	Date: 08/31/2010 (875701)	CN600640189	Classification: Moderate
	Self Report? YES	For Informational Purposes Only	
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	
26	Date: 09/30/2010 (889664)	CN600640189	Classification: Moderate
	Self Report? YES	For Informational Purposes Only	
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	
27	Date: 12/13/2010 (890660)	CN600640189	Classification: Moderate
	Self Report? NO	For Informational Purposes Only	
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
		Classification: Moderate	
	Self Report? NO	For Informational Purposes Only	
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
		Classification: Moderate	
	Self Report? NO	For Informational Purposes Only	
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
		Classification: Moderate	
	Self Report? NO	For Informational Purposes Only	
	Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)	
	Description:	NON-RPT VIOS FOR MONIT PER OR PIPE	
28	Date: 01/31/2011 (918087)	CN600640189	Classification: Moderate
	Self Report? YES	For Informational Purposes Only	
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	
29	Date: 02/28/2011 (918088)	CN600640189	Classification: Moderate
	Self Report? YES	For Informational Purposes Only	
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	
30	Date: 03/31/2011 (939791)	CN600640189	Classification: Moderate
	Self Report? YES	For Informational Purposes Only	
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	

Description: Failure to meet the limit for one or more permit parameter

31 Date: 05/31/2011 (954458) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

32 Date: 06/30/2011 (986070) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

34* Date: 10/31/2011 (986071) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

35* Date: 11/30/2011 (992428) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

36* Date: 12/31/2011 (999738) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

37* Date: 01/31/2012 (1005281) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

38* Date: 01/31/2012 (970934) CN600640189
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Sludge Provisions, Section III.G PERMIT
Description: Failure to submit an annual sludge report (September 02- August 03) by
September 1st of 2003 to the TCEQ Regional Office and to the Water Quality
Management Information Systems Team (MC 224) of the Enforcement Division.
Classification: Moderate
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring and Reporting Requirement #5 PERMIT
Description: Failure to maintain the accuracy of the effluent flow meter.
Classification: Major
Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations Requirement #1 PERMIT
Description: Failure to meet permit effluent limits for CBOD, Ammonia Nitrogen, Dissolved

Oxygen and Chlorine Residual based upon a twelve month record review of DMR data and investigation sample results.

Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
Description: Failure to record the sample collection time and the analysis time for field

measurements such as dissolved oxygen, pH, and total chlorine residual.

Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 319, SubChapter A 319.6
Description: Failure to meet quality control requirements for the analysis of dissolved oxygen and total chlorine residual.

Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to correctly report self-reported effluent data on DMRs for months of November 2008, December 2008, January 2009, February 2009, March 2009, and April 2009.

Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.11(e)
WQ0010841001 PERMIT
Description: Failure to conduct the required quality assurance/quality control (QA/QC) for the total chlorine residual analysis.

Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
WQ0010841001 PERMIT
Description: Failure to maintain and secure all lift stations.

Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)
WQ0010841001 PERMIT
Description: Failure to provide an annual certification of the reduced pressure backflow assembly (RPBA) on the public water supply line located at the wastewater treatment plant.

Classification: Minor

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
30 TAC Chapter 305, SubChapter F 305.125(11)(C)
Description: Failure to submit the annual sludge report (September 2010-August 2011) by September 1 of each year.

Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010841001 PERMIT
Description: Failure to maintain compliance with the ammonia nitrogen permitted effluent limit.

Classification: Moderate

Self Report? NO For Informational Purposes Only
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010841001 PERMIT
Description: Failure to submit a noncompliance notification when a permit effluent limitation is exceeded by more than 40 percent.

39*

Date: 02/29/2012 (1005282) CN600640189

Classification: Moderate

Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Description: Failure to meet the limit for one or more permit parameter

40* Date: 03/31/2012 (1018221) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

41* Date: 04/30/2012 (1018222) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

42* Date: 05/31/2012 (1033311) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

43 Date: 09/30/2012 (1069569) CN600640189
Classification: Moderate
Self Report? YES For Informational Purposes Only
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

* NOVs applicable for the Compliance History rating period 9/1/2007 to 8/31/2012

Appendix B

All Investigations Conducted During Component Period March 04, 2008 and March 04, 2013

Item 1	April 04, 2008**	(640519)	For Informational Purposes Only	(732729)
			Item 10*	December 12, 2008** For Informational Purposes Only
Item 2*	April 29, 2008**	(654022)	For Informational Purposes Only	(721348)
			Item 11	December 30, 2008** For Informational Purposes Only
Item 3	July 15, 2008**	(732722)	For Informational Purposes Only	(772965)
			Item 12	January 01, 2009** For Informational Purposes Only
Item 4	August 15, 2008**	(717358)	For Informational Purposes Only	(755987)
			Item 13	January 30, 2009** For Informational Purposes Only
Item 5*	August 18, 2008**	(688618)	For Informational Purposes Only	(755983)
			Item 14	February 26, 2009** For Informational Purposes Only
Item 6	September 12, 2008**	(717359)	For Informational Purposes Only	(755985)
			Item 15*	March 03, 2009** For Informational Purposes Only
Item 7*	September 30, 2008**	(732727)	For Informational Purposes Only	(772966)
			Item 16*	March 16, 2009** For Informational Purposes Only
Item 8*	October 11, 2008**	(930320)	For Informational Purposes Only	(755984)
			Item 17	March 30, 2009** For Informational Purposes Only
Item 9*	November 07, 2008**	(732728)	For Informational Purposes Only	(772967)

Item 18	May 01, 2009**	For Informational Purposes Only	(898035)
		(930319)	Item 40* December 28, 2010** For Informatio
Item 19	May 07, 2009**	For Informational Purposes Only	(910824)
		(742498)	Item 41* February 11, 2011** For Informatio
Item 20	June 01, 2009**	For Informational Purposes Only	(918087)
		(819041)	Item 42 March 03, 2011** For Informatio
Item 21*	August 03, 2009**	For Informational Purposes Only	(918088)
		(819042)	Item 43 March 31, 2011** For Informatio
Item 22*	August 24, 2009**	For Informational Purposes Only	(939791)
		(819043)	Item 44 May 11, 2011** For Informatio
Item 23*	September 25, 2009**	For Informational Purposes Only	(947207)
		(819044)	Item 45* June 02, 2011** For Informatio
Item 24*	November 09, 2009**	For Informational Purposes Only	(954458)
		(819045)	Item 46 July 05, 2011** For Informatio
Item 25*	November 20, 2009**	For Informational Purposes Only	(986070)
		(819046)	Item 47 August 03, 2011** For Informatio
Item 26*	December 28, 2009**	For Informational Purposes Only	(967136)
		(819047)	Item 48* September 09, 2011** For Informatio
Item 27	January 28, 2010**	For Informational Purposes Only	(973101)
		(791549)	Item 49* October 07, 2011** For Informatio
Item 28	February 09, 2010**	For Informational Purposes Only	(973102)
		(819040)	Item 50 October 28, 2011** For Informatio
Item 29	March 01, 2010**	For Informational Purposes Only	(986071)
		(835919)	Item 51 December 02, 2011** For Informatio
Item 30*	March 24, 2010**	For Informational Purposes Only	(992428)
		(835920)	Item 52 January 03, 2012** For Informatio
Item 31	May 11, 2010**	For Informational Purposes Only	(970934)
		(847822)	Item 53 January 31, 2012** For Informatio
Item 32	June 28, 2010**	For Informational Purposes Only	(999738)
		(862227)	Item 54 February 10, 2012** For Informatio
Item 33	June 30, 2010**	For Informational Purposes Only	(987370)
		(868830)	Item 55 February 13, 2012** For Informatio
Item 34*	August 30, 2010**	For Informational Purposes Only	(1005281)
		(875701)	Item 56 March 14, 2012** For Informatio
Item 35	September 30, 2010**	For Informational Purposes Only	(995555)
		(889664)	Item 57 March 27, 2012** For Informatio
Item 36	November 01, 2010**	For Informational Purposes Only	(1005282)
		(889665)	Item 58 March 28, 2012** For Informatio
Item 37*	November 29, 2010**	For Informational Purposes Only	(1018221)
		(890660)	Item 59 May 09, 2012** For Informatio
Item 38	December 13, 2010**	For Informational Purposes Only	(1018222)
		(889663)	Item 60 June 04, 2012** For Informatio
Item 39	December 20, 2010**	For Informational Purposes Only	

(1033311)

(1069570)

Item 61

July 02, 2012**

For Informational Purposes Only

Item 63*

December 27, 2012

For Informational Purposes Only

(1069569)

(1051128)

Item 62

October 19, 2012

For Informational Purposes Only

Item 64

January 04, 2013

For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2007 and 08/31/2012.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF GUSTINE
RN102178654**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2013-0253-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Gustine ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment plant located approximately two miles east of the intersection of State Highway 36 and Farm-to-Market Road 1476 in Comanche County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review conducted on December 11, 2012, TCEQ staff documented the following from self-reported monthly discharge monitoring reports ("DMRs"):

	Ammonia Nitrogen Daily Avg. Conc.	Ammonia Nitrogen Single Grab Conc.	Ammonia Nitrogen Daily Avg. Loading Conc.	CBOD₅ Daily Avg. Conc.	CBOD₅ Daily Single Grab Conc.	CBOD₅ Daily Avg. Conc.	Total Suspended Solids Daily Avg. Conc.	Total Suspended Solids Daily Avg. Loading Conc.	Chlorine Residual Minimum	Dissolved Oxygen Minimum
Months:	Limit = 3 mg/L	Limit = 15 mg/L	Limit = 2.1 lbs/day	Limit = 10 mg/L	Limit = 35 mg/L	Limit = 6.8 lbs/day	Limit = 15 mg/L	Limit = 10 lbs/day	Limit = 1 mg/L	Limit = 4 mg/L
October 2011	3.2	c	c	c	c	c	c	c	0.7	c
November 2011	23.5	40.8	3	c	c	c	c	c	c	c
December 2011	43.8	48	7.1	17.25	c	c	20.5	c	c	c
January 2012	21.5	34.4	3.6	11	c	c	c	c	c	c
February 2012	6.9	c	c	c	c	c	c	c	c	c
March 2012	24.3	43.2	20.5	c	c	10	15.8	12.2	c	c
April 2012	23.6	41.1	3.77	18.8	40	c	29.5	c	c	c
May 2012	33.2	36.8	4.9	19	39	c	29	c	c	c
September 2012	36.8	43.9	9.2	32.2	60	7.8	c	c	c	3.6

mg/L = milligrams per liter
lbs/day = pounds per day
CBOD₅ = five-day Carbonaceous Biochemical Oxygen Demand
c = compliant
Conc. = concentration
Avg. = average

4. During a record review conducted on December 11, 2012, TCEQ staff documented that the Respondent failed to submit the DMRs for the monitoring periods ending June 30, 2012; July 31, 2012; and August 31, 2012, by the 20th day of the following month.
5. During a record review conducted on December 11, 2012, TCEQ staff documented that the Respondent failed to submit the annual sludge report for the monitoring period ending July 31, 2012, by September 1, 2012.
6. The Respondent received notice of the violations on January 9, 2013.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010841001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit effluent monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and (17) and 319.7(d), and TPDES Permit No. WQ0010841001, Monitoring and Reporting Requirements No. 1.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to submit the annual sludge report for the monitoring period ending July 31, 2012, by September 1, 2012, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (17) and TPDES Permit No. WQ0010841001, Sludge Provisions.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Forty Thousand Dollars (\$40,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Forty Thousand Dollars (\$40,000) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Forty Thousand Dollars (\$40,000) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Gustine, Docket No. 2013-0253-MWD-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 6 above, Forty Thousand Dollars (\$40,000) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order:

- i. Submit the DMRs for the monitoring periods ending June 30, 2012; July 31, 2012; and August 31, 2012, and the annual sludge report for the monitoring period ending July 31, 2012 to:

Compliance Monitoring Section
Enforcement Division, MC 224
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- ii. Update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished,

including the timely submittal of signed and certified monthly DMRs and annual sludge reports, in accordance with TPDES Permit No. WQ0010841001.

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.a.i and 3.a.ii. The certification shall be in accordance with Ordering Provision No. 3.d below;
- c. Within 180 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010841001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be in accordance with Ordering Provision No. 3.d below; and
- d. The written certifications of compliance required by Ordering Provision Nos. 3.b and 3.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Abilene Regional Office
Texas Commission on Environmental Quality
1977 Industrial Boulevard
Abilene, Texas 79602-7833

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving,

imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Ramona Mancini
For the Executive Director

12/17/14
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Gustine. I am authorized to agree to the attached Agreed Order on behalf of the City of Gustine, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Gustine waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Ken Huey
Signature

6/20/14
Date

Ken Huey
Name (Printed or typed)
Authorized Representative of
City of Gustine

Mayor
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order

Attachment A
Docket Number: 2013-0253-MWD-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Gustine
Penalty Amount:	Forty Thousand Dollars (\$40,000)
SEP Offset Amount:	Forty Thousand Dollars (\$40,000)
Type of SEP:	Compliance SEP
Project Name:	<i>WWTP Improvements</i>
Location of SEP:	Comanche County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment plant which are described in this Agreed Order. This Agreed Order cites violations at the Respondent's wastewater treatment plant. Respondent shall hire a contractor to lower and level the clarifier Weir; repair or replace the air system piping and diffusers; and install an automatic ammonia sensor system at its wastewater treatment plant. Specifically, the SEP Offset Amount shall be used for materials, supplies, equipment, and contractor services for one or more of the following: lower and level the clarifier Weir, repair or replace the air system piping and diffusers, and install the automatic ammonia sensor system (the "Project"). Any advertisements, including solicitation for bids publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The Project will be performed in accordance with all federal, state, and local environmental laws and regulations, including obtaining any permits that may be required prior to commencement of the work.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C, Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has not previously performed this Project, and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Contractor Estimate:				
Lower and level Weir	1	\$7,885.00	Each	\$7,885.00
Repair air system	1	\$13,935.00	Each	\$13,935.00
Install ammonia analyzer	1	\$25,920.00	Each	\$25,920.00
Total				\$47,740.00

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 90 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 60 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed

on the Project during the previous 30-day period and setting forth a schedule for achieving completion of the Project within the 90-day time-frame set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 30-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
60	Actions completed during previous 60-day period
90	Notice of SEP completion

B. Final Report

Within 90 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Dated photographs of the purchased equipment; the equipment being removed; before and after work being performed during the installation process; and photographs of the completed Project;
4. Copies of all engineering plans related to work performed pursuant to the Project;
5. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
6. Any additional information demonstrating compliance with this Attachment A.

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.